

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

YACOUBA DIARRA,

Plaintiff,

vs.

COASTAL ALASKA PREMIER SEAFOODS,  
LLC, AND F/V DEEP PACIFIC LLC, *IN  
PERSONAM*; THE F/V DEEP PACIFIC,  
OFFICIAL NUMBER 640128, HER ENGINES,  
MACHINERY, APPURTENANCES AND  
CARGO, *IN REM*.

## Defendants.

Case No.: 2:19-cv-01070-RSL

# **ORDER GRANTING DEFENDANTS' MOTION TO STAY CASE AND COMPEL ARBITRATION**

THIS MATTER comes before the Court on Defendants' Motion to Stay Case and Compel Arbitration. Dkt. # 19. Having reviewed the pleadings in this matter it is hereby ORDERED that:

1. Defendants' Motion to Stay Case and Compel Arbitration is hereby GRANTED. The Ninth Circuit applies a four-factor test when determining whether to enforce an arbitration clause under the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, which is codified in the second chapter of Title 9 of the United States Code. Balen v. Holland Am. Line Inc., 583 F.3d 647, 654 (9<sup>th</sup> Cir. 2009); Rogers v. Royal Caribbean Cruise Line, 547 F.3d 1148, 1152 (9<sup>th</sup> Cir. 2008). The parties dispute whether the fourth factor is satisfied in this case. Plaintiff, relying on a

1 treatise, posits that the fourth factor requires that “the matter must not be entirely  
2 domestic in scope and argues that an injury occurring on a U.S.-flagged vessel in U.S.  
3 waters is “as ‘domestic’ as it gets.” Dkt. # 22 at 1-2 (quoting Thomas J. Schoenbaum,  
4 Admiralty and Maritime Law § 6:13 (6<sup>th</sup> ed. 2018)). The Ninth Circuit’s formulation of  
5 the fourth factor makes clear, however, that if a party to the agreement is not an  
6 American citizen, the dispute is not entirely domestic in scope. Balen, 583 F.3d at 654-  
7 55 (an arbitration agreement will be enforced under the Convention if “(4) a party to the  
8 agreement is not an American citizen, or that the commercial relationship has some  
9 reasonable relation with one or more foreign states.”) (quoting Bautista v. Star Cruises,  
10 396 F.3d 1289, 1294 n.7 (11<sup>th</sup> Cir. 2005)). Plaintiff does not dispute defendant’s  
11 contention that he is a citizen of Mali.

12       2.     This matter is hereby STAYED. The Clerk of Court is directed to enter a  
13 statistical termination in this case. Such termination is entered solely for the purpose of  
14 removing this case from the Court’s active calendar. If a motion to confirm or vacate the  
15 arbitral award is necessary, it may be filed under this cause number.

16       3.     Pursuant to the arbitration agreement between the parties and the  
17 Convention, the parties are directed to proceed to arbitration in either Seattle,  
18 Washington or Anchorage, Alaska.

19  
20           IT IS SO ORDERED.

21  
22           Dated this 14th day of January, 2020.

23             
24           ROBERT S. LASNIK  
25           UNITED STATES DISTRICT JUDGE  
26  
27  
28